



Data Sharing Agreements

Updates and Enhancements

2008 Data Protection Seminar
TMA Privacy Office



Data Sharing Agreements Updates and Enhancements

Purpose

- Provide an understanding of the rationale for updating and enhancing the structure of Data Sharing Agreements, the new agreement types, and how each will be used



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Objectives

- This presentation will:
 - Explain the drivers for changes and the benefits of enhancements
 - Provide a high-level understanding of the new structure for different types of data sharing agreements



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The Most Significant Change

- ❑ The most significant change is in the terminology, not the process
- ❑ **Data Use Agreement** (DUA) will no longer be a broad and generic term
- ❑ **Data Sharing Agreement** will be the umbrella term referring to the collection of agreements required by Department of Defense (DoD) privacy regulations
- ❑ DUA will remain in use; however, it will refer to a specific and limited type of agreement pursuant to DoD health privacy regulation*

* DoD 6025.18-R



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Rationale

□ Drivers

- Tighten alignment of TMA data sharing agreements with DoD and Federal Health Insurance Portability and Accountability Act (HIPAA) regulations
- Provide sufficient coverage of TMA business requirements
- Adopt industry standards and best practices

□ Key Changes

- More specific names for various types of agreements
- Updated language to include in each agreement

□ Benefits

- Increased accountability
- Less overlap between agreement types
- More concise and user friendly agreements

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New Agreement Types

Draft

1 Agreement to Protect Sensitive De-Identified Data

- ▶ Recipient is not regulated by DoD 6025.18-R
- ▶ De-identified data
- ▶ Data contains sensitive information

2 Data Use Agreement

- ▶ Recipient is not regulated by DoD 6025.18-R
- ▶ “Limited data set”
- ▶ For research, public health, or healthcare operations

3 Business Associates Agreement

- ▶ Recipient is not regulated by DoD 6025.18-R
- ▶ Is not a provider that needs the information for treatment purposes
- ▶ Protected Health Information (PHI) and/or Personally Identifiable Information (PII)
- ▶ Needs the information to provide a service to T or MHS

4 Systems Maintenance and Operations

- ▶ Recipient is a contractor that provides maintenance and/or operations to an MHS system
- ▶ PHI and/or PII
- ▶ Must also include BAA provisions

5 Agreement for the Disclosure of De-identified Data for Quality Assurance

- ▶ De-identified data
- ▶ For quality assurance purposes per DoD 6025.13-R
- ▶ TMA tracks disclosures made in this regard

6 Research Disclosure Agreement

- ▶ To a researcher
- ▶ PHI and/or PII
- ▶ For purposes consistent with the regulation (e.g., Institutional review board (IRB) approved studies, surveys, etc.)

7 Computer Matching Agreements

- ▶ PHI and/or PII
- ▶ Records from Federal personnel or payroll system of records
- ▶ Matching programs involving Federal benefit programs (e.g., eligibility for benefits, payment recovery)

Considerations for Use/Disclosure - “3Ws”

1. **Who** is the recipient?

- DoD
- Government (non-DoD)
- Non-government

2. **What** data is used/disclosed?

- De-identified data
- Sensitive information
- Limited data set
- PII and/or PHI

3. **Why** is the request being made?

- Quality Assurance
- Computer Matching
- Research
- Maintenance of an MHS system
- Other – to be reviewed by the TMA Privacy Office



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Summary

- You now can:
 - Understand the drivers for changes and the benefits of enhancements
 - Have a high-level understanding of the new structure for different types of data sharing agreements